IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,
      Plaintiff/Respondent,

   v.   No. 99-CR-571 MV
                                              No. 17-CV-1255 MV/KRS

KEITH HOPSKIN,

      Defendant/Movant.

ORDER APPOINTING COUNSEL

THIS MATTER is before the Court on Defendant/Movant Keith Hopskin's Motion under 28 U.S.C. § 2255, (CR Doc. 61), and Motion to Appoint Counsel, (CR Doc. 77, CIV Doc. 11). This case has been referred to the undersigned for proposed findings and a recommended disposition.   (CR Doc. 65).   The Court has dismissed Mr. Hopskin's claim that his attorney was ineffective for failing to raise a jurisdictional challenge and has determined that an evidentiary hearing is required to consider Mr. Hopskin's remaining claim that his attorney was ineffective for failing to file an appeal.   (CIV Doc. 10) (adopting Proposed Findings and Recommended Disposition).   The Court will set a limited evidentiary hearing on this one remaining issue.

Because an evidentiary hearing is necessary, appointment of counsel is warranted.   *See Swazo v. Wyo. Dept. of Corrs. State Penitentiary Warden*, 23 F.3d 332, 333 (10th Cir. 1994) ("[T]here is a right to counsel in a habeas case when the district court determines that an evidentiary hearing is required."); Rule 8(c) of the Rules Governing Section 2255 Cases in the United States District Courts ("If an evidentiary hearing is warranted, the judge must appoint an attorney to represent a moving party who qualifies to have counsel appointed under 18 U.S.C. §

3006A."); § 3006A(a)(2)(B) (the magistrate judge may appoint counsel to a financially qualified individual moving for habeas relief); *see also* (CR Doc. 4) (appointing counsel in the underlying criminal case and, thus, implicitly finding Mr. Hopskin financially eligible).

IT IS THEREFORE ORDERED that counsel be appointed, consistent with the requirements of § 3006A and this Court's relevant policies, for the limited purpose of representing Mr. Hopskin at the evidentiary hearing.

IT IS SO ORDERED.

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UNITED STATES MAGISTRATE JUDGE